

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 5/20/2022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
MERCY CASTILLO, JESSICA LORA, and :
ULISES RODRIGUEZ, *individually and on behalf of all:* :
others similarly situated, :
Plaintiffs, :
:
- against - :
:
“EL SAN JUAN” CITY ISLAND ON 5TH AVE :
LLC, MANUEL VIDAL, and JOSEFINA VIDAL, :
:
Defendants. :
:
----- X
GREGORY H. WOODS, District Judge:

1:21-cv-02824-GHW

ORDER

On April 13, 2022, the Court held a hearing on the motion to withdraw by counsel for Defendants Manual Vidal and Josefina Vidal (“Defendants”). Defendants were ordered to attend that hearing. They did not initially do so. Accordingly, the Court contacted Mr. Vidal via telephone during that conference, who then participated via telephone.

During that conference, the Court granted Defendants’ counsel’s motion to withdraw and the Court also stayed proceedings in this case for 30 days. The Court scheduled a conference for May 16, 2022 and ordered Defendants to appear at that conference either in person or via newly-retained counsel. Dkt. No. 57. Neither Defendants nor any newly-retained counsel for Defendants appeared at the May 16, 2022 conference.

Accordingly, that conference is adjourned to June 1, 2022 at 3:00 p.m. The conference will take place in Courtroom 12C of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl Street, New York, New York, 10007. Defendants are again ordered to appear at the conference either in-person or through any newly retained counsel. Should Defendants fail to appear for the third time, the Court will find that they are in default, which could result in the entry of default judgment against them.

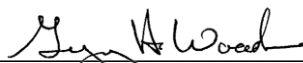
In addition, in the Court’s April 13, 2022 order, the Court noted that the case would be automatically stayed with respect to Defendant “El San Juan” City Island on 5th Ave LLC (the “Corporate Defendant”) because Defendants believed that the Corporate Defendant was a party in a pending bankruptcy. That bankruptcy proceeding, however, has been dismissed. *See In re San Juan City Island on 5th Ave LLC*, 1:21-bk-11998, Dkt. No. 13 (Feb. 16, 2022). Accordingly, the automatic stay is no longer in place with respect to the Corporate Defendant. *See* 18 U.S.C. § 362(c)(2)(B) (“[T]he stay continues until . . . the case is dismissed . . .”).

Corporate entities must appear before the Court through counsel. *See Rowland v. California Men’s Colony*, 506 U.S. 194, 201–02 (1993). Thus, if no attorney enters an appearance on behalf of the Corporate Defendant by June 1, 2022, the Court will consider the Corporate Defendant to be in default. *See Sec. & Exch. Comm’n v. Research Automation Corp.*, 521 F.2d 585, 589 (2d Cir. 1975) (“It is settled law that a corporation may not appear in a lawsuit against it except through an attorney, and that, where a corporation repeatedly fails to appear by counsel, a default judgment may be entered against it pursuant to Rule 55[.]”); *see also, e.g., City of New York v. Mickalis Pann Shop, LLC*, 645 F.3d 114, 129, 130 (2d Cir. 2011). Counsel for the Corporate Defendant is ordered to attend the conference scheduled for June 1, 2022.

The Clerk of Court is ordered to send a copy of this order to the Corporate Defendant and Defendants via certified mail.

SO ORDERED.

Dated: May 20, 2022
New York, New York



GREGORY H. WOODS
United States District Judge